Argued Q 0-257 Postponed
Azlton. Mr. Davis,
March 25,
Is United States bound by Bankrupt Laws?

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 252. — Revised Sup. Ct. U.S. 1873

THE UNITED STATES, PLAINTIFFS IN ERROR,

vs.

FRANCIS J. HERRO[illegible]

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 15, 1872.

P 521 vol 14
Sec 28

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No. 252.

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1 UNITED STATES OF AMERICA:

United States circuit court, fifth circuit, and district of Louisiana.

UNITED STATES *vs.* FRANCIS J. HERRON, THOMAS P. MAY, William C. Fulham, Henry E. Robinson, and John C. Elstner.	No. 5559.

Petition.—Filed April 16th, 1872.

The plaintiff, The United States of America, represented by Samuel H. Torrey, United States attorney for the district of Louisiana, respectfully states that the defendants, Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, are residents of the State of Lousiana; that they are justly indebted unto plaintiff in the sum of fifty thousand dollars, ($50,000,) lawful money of the United States, with legal interest thereon from the 31st of December, 1866, until paid, as hereinafter set forth, and now demanded.

2 For that whereas, heretofore, to wit, on the 15th day of September, 1866, said defendants, with Lewis B. Collins, did make, sign, seal, and deliver to plaintiff their written obligation, the date whereof is the 15th of September, 1866, which is made a part hereof, and is, in substance, as follows, to wit:

Know all men by these presents that we, Lewis B. Collins, as principal, and Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, are held and firmly bound unto The United States of America in the full and just sum of fifty thousand dollars, money of the United States, to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly, by these presents, sealed with our seals, and dated this fifteenth day of September, in the year one thousand eight hundred and sixty-six.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed

3 the said Lewis B. Collins collector of taxes under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:"

Now, therefore, if the said Lewis B. Collins shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

Plaintiff further says that, after the said writing-obligatory was so signed and delivered, and whilst the same was in force and binding upon the said parties, the said Lewis B. Collins did not fulfill or comply with the conditions of said obligation, but therein wholly

4 made default. That the conditions and obligations of said bond were by the said Lewis B. Collins broken in this:

1st. That he, the said Lewis B. Collins, did not justly and faithfully

1 UNITED STATES OF AMERICA:

United States circuit court, fifth circuit, and district of Louisiana.

UNITED STATES *vs.* FRANCIS J. HERRON, THOMAS P. MAY, William C. Fulham, Henry E. Robinson, and John C. Elstner.	No. 5559.

Petition.—Filed April 16th, 1872.

The plaintiff, The United States of America, represented by Samuel H. Torrey, United States attorney for the district of Louisiana, respectfully states that the defendants, Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, are residents of the State of Lousiana; that they are justly indebted unto plaintiff in the sum of fifty thousand dollars, ($50,000,) lawful money of the United States, with legal interest thereon from the 31st of December, 1866, until paid, as hereinafter set forth, and now demanded.

2 For that whereas, heretofore, to wit, on the 15th day of September, 1866, said defendants, with Lewis B. Collins, did make, sign, seal, and deliver to plaintiff their written obligation, the date whereof is the 15th of September, 1866, which is made a part hereof, and is, in substance, as follows, to wit:

Know all men by these presents that we, Lewis B. Collins, as principal, and Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, are held and firmly bound unto The United States of America in the full and just sum of fifty thousand dollars, money of the United States, to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly, by these presents, sealed with our seals, and dated this fifteenth day of September, in the year one thousand eight hundred and sixty-six.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed

3 the said Lewis B. Collins collector of taxes under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:"

Now, therefore, if the said Lewis B. Collins shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

Plaintiff further says that, after the said writing-obligatory was so signed and delivered, and whilst the same was in force and binding upon the said parties, the said Lewis B. Collins did not fulfill or comply with the conditions of said obligation, but therein wholly

4 made default. That the conditions and obligations of said bond were by the said Lewis B. Collins broken in this:

1st. That he, the said Lewis B. Collins, did not justly and faithfully

account for, nor pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury all public moneys which he, as collector of taxes as aforesaid, received for the use and benefit of the United States of America.

2d. That he, the said Lewis B. Collins, did not faithfully do and perform, as collector of taxes as aforesaid, all such acts and things as were required of him by the regulations of the Treasury Department.

By reason of said several breaches of said writing-obligatory, the same has been broken, and the penalty thereof become forfeited to the United States.

Wherefore petitioners pray that said defendants, Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, be duly cited to answer this petition, and, after due pro-
5 ceedings had, there be judgment for plaintiff against said defendants in solido for the said sum of fifty thousand dollars, with legal interest, costs, &c. And petitioners pray for general relief.

(Signed) SAM. H. TORREY,
U. S. Attorney.

Let service of this petition and citation be made upon Francis J. Herron, one of the defendants in this case, by John Devonshire, who is hereby appointed special deputy-marshal for that purpose.

April 16th, 1868.

(Signed) E. H. DURELL, *Judge.*

Bond.—Filed April 16th, 1868.

Know all men by these presents that we, Lewis B. Collins, as principal, and Francis J. Herron, Thomas P. May, William C. Fulham, Henry E. Robinson, and John C. Elstner, inhabitants of the State of Louisiana, are held and firmly bound unto the United States of America in
6 the full and just sum of fifty thousand dollars, money of the United States, to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this fifteenth day of September, in the year one thousand eight hundred and sixty-six.

The condition of the foregoing obligation is such, that, whereas the President of the United States hath, pursuant to law, appointed the said Lewis B. Collins collector of taxes under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:"

Now, therefore, if the said Lewis B. Collins shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the
7 Treasury, all public moneys which may come into his hands or possession, and if each and every deputy-collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy-collector according to law, then the above obliga-

tion to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

(Signed)

LEWIS B. COLLINS. [SEAL.]
FRANCIS P. HERRON. [SEAL.]
THOMAS P. MAY. [SEAL.]
WILLIAM C. FULHAM. [SEAL.]
HENRY E. ROBINSON. [SEAL.]
JOHN C. ELSTNER. [SEAL.]

Sealed and delivered in presence of—
K. LOEW, *U. S. Com'r.*

[$1.00 int. rev. stamp, cancelled.]

I, Lewis B. Collins, having been appointed to the office of tax-collector of the internal revenue 3rd district of the State of Louisiana, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office what-
8 ever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me, God.

LEWIS B. COLLINS.

Sworn to and subscribed this 15th day of September, 1866, before me. Witness my hand and seal.

[SEAL OF K. LOEW.] K. LOEW, *U. S. Com'r.*

I, Charles Claiborne, clerk of the dist. court of the U. S., east dist. of Louisiana, do hereby certify that K. Loew, esq., who administered
9 the above oath, was, at the time of doing so, duly authorized to administer the same, and that full faith and credit are due to his official attestations; and I do further certify that the sureties are sufficient to pay the penalty of the bond.

In testimony whereof I have hereto set my hand and affixed the seal of our court at New Orleans, this 15th Sept'r, 1866.

[SEAL OF U. S. COURT.] CHA'S CLAIBORNE, *Clerk.*

[5-cent stamp, cancelled.]

Francis J. Herron and Thomas P. May, two of the sureties on the within bond, being duly sworn, say that they are resident of the east district of Louisiana, and are worth the sum of fifty thousand dollars each, over and above all their debts and liabilities.

FRANCIS J. HERRON.
THOMAS P. MAY.

Sworn to and subscribed before me, this 15th Sept'r, 1866.
K. LOEW,
D'y Clk & U. S. Com'r.

William C. Fulham, one of the sureties on the within bond of
10 Lewis B. Collins, being sworn, says he resides in this city, and State of L'a, and is worth fifty thousand dollars over and above all his debts and liabilities.

WILLIAM C. FULHAM.

Sworn to and subscribed before me, this 15th September, 1866.
[COM'R'S SEAL.] K. LOEW,
U. S. Com.

Henry E. Robinson, being sworn, says he resides within this district, and is worth the sum of thirty thousand dollars over and above all his debts and liabilities.

HENRY E. ROBINSON.

Sworn to and subscribed before me, this 15th September, 1866.
K. LOEW, *U. S. C.*

John C. Elstner, being sworn, says he resides in the State of Louisiana, and is worth the sum of twenty-five thousand dollars over and above all his debts and liabilities.

JOHN C. ALSTNER.

Sworn to and subscribed before me, this 15th September, 1866.
11 K. LOEW,
U. S. Com'r.

UNITED STATES OF AMERICA,
East. District of Louisiana:

I certify that I have this day administered the oaths to the sureties named in the annexed bond, and that I consider them good and sufficient to pay the penalty thereof.

Given under my hand & seal at New Orleans, this 15th day of September, 1866.
[SEAL OF K. LOEW.] K. LOEW,
U. S. Com.

[5-cent stamp, cancelled.]

TREASURY DEPARTMENT,
SOLICITOR'S OFFICE, *Oct'r 16th*, 1866.

I have examined the within bond, and find it to be executed in proper form, and I approve the sureties thereto as sufficient.
(S'g'd) H. A. RISLEY,
Act'g Solicitor.

Certificate from the Treasury Depart.

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT,
January 6th, 1868.

Pursuant to the act of Congress of February 22d, 1849, I
12 hereby certify that the annexed writing is a true copy of

the original bond of Lewis B. Collins, late collector of internal revenue for the third collection district of Louisiana, dated September 15th, 1866, on file in this Department.

In witness whereof I have hereto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.] (Signed) H. McCULLOCH,
Secretary of the Treasury.

Accounts annexed.

13 [No. 1965.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *December 3rd*, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Lewis B. Collins, late collector for the 3rd district of Louisiana, from January 1st, 1867, to May 11th, 1867, and find him charged as follows:

1. To balance from last adjustment, report No. 1399		430,116 47	
2. " Amount of assessor's lists receipted for per certificate of Commissioner, and receipts in Comptroller's office		665,347 92	
4. " amount of beer stamps sold as per Commissioner's certificate		101 75	
" Collected of J. W. Simmons, Nov.,'66, 496.80, and H. Lawrence, Dec., '66, 50.64, to cancel transportation bonds, credited by collector in his quarterly account, No. 4, not heretofore charged		547 44	
" collected on bonded goods received from other districts, credited by collector in his quarterly ac. No. 4, not heretofore charged		2,591 52	
			1,098,705 10

I also find him entitled to credit as follows:

8. To amount of cash deposited as per 12 certificates herewith		322,833 62	
9. " amount of taxes abated by Commissioner's orders, numbers 3468, 3469, 3519, 3527, 3597, 4061		124,324 27	
Warrants covering into Treasury amount of cash deposited:			
No. 235, 1st quarter, 1867	106,000 00		
549, " " "	50,000 00		
843, " " "	136,571 62		
242, 2d " "	15,262 00		
266, " " "	15,000 00		
	322,833 62		
14. By balance due the United States:		651,547 21	
			1,098,705 10

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

(Signed) C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

[$651,547.21.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *December 6th*, 1867.

I admit and certify that a balance of six hundred and fifty-one thou-

sand five hundred and forty-seven $\frac{21}{100}$ dollars is due to the United States, as stated in the above report.

(Signed) R. W. TAYLOR,
Comptroller.

To the REGISTER OF THE TREASURY.

14 *Statement of differences.*

Balance due to the United States		476,489 45
" found, per adjustment, due to same		651,547 21
Difference to collector's debit		175,057 76
Explained thus:		
1. Amount of lists, Form 23¼, charged in present report	665,347 92	
" " beer stamps sold " " " "	101 75	
" " collections to cancel transportation bonds, charged in present report	547 44	
4. " " collections on bonded goods received from other districts, charged in present report	2,591 52	
		668,588 63
Per contra:		
5. Cash deposited, credited in present report		
6. Taxes abated, " " " "		
7. Balance, as per collector's ⅚ to Dec'r 31st, 1866, due the United States	476,489 45	
" " auditor's report, to Dec'r 31st, 1866, due to the United States	430,116 47	
Difference to collector's credit	46,372 98	
Difference thus caused:		
Amount of taxes credited by collector in excess of am't charged in the auditor's report	57,774 45	
NOTE.—Of this amount, collections, annual list 1866, and December, 1866, credited by collector in advance of receipt of said lists, 28,572.35; collections to cancel transportation bonds, 547.44; and collections on bonded goods received from other districts, 2,591.22, are charged in the present report. See items above, Nos. 3 and 4, and schedule of lists below.		
From which deduct:		
Amount of disbursements for office expenses charged by collector, not allowed	11,401 47	
Difference, as above stated	46,372 98	
		493,530 87
Lists charged herein		175,057 76

	Form 23¼.	Form 103, beer stamps.
Annual, 1866	82,511 91	
December, "	213,543 46	
Jnnuary, 1867	205,621 19	21 27
February, "	109,555 87	51 80
March, "	54,115 49	28 68
	665,347 92	101 75

FIFTH AUDITOR'S OFFICE,
December 3rd, 1867.

Examined and stated by—

J. FRED. JOSEPH.

COMPTROLLER'S OFFICE,
December 3rd, 1867.

Examined and reported by—

S. C. CLARKE.

15 COLLECTOR'S QUARTERLY ACCOUNT NO. 1, QUARTER ENDING MARCH 31ST, 1866.

The United States (Office of Internal Revenue) in account with Lewis B. Collins, collector 3rd dist. Louisiana.

DR.

3. To cash deposited:			
Month of February		95,780 44	
" " March		43,314 40	
			139,094 84
6. To amount of cotton bonded in the quarter for transportation to the 1st dist. La., the tax to be collected there, viz:			
January, $54,551.74; February, $29,361.78; March, $1,885.34		85,798 86	
March, not receipted for		24,266 86	
			110,065 72
To disbursements, as follows:			
From 63, office expenses	3,500 83		
Do. 85, stationery, &c.	2,056 80		
Assessor's ⅔	5,321 25		
Collector's ⅓	1,064 34		
		11,943 22	
Less draft		2,800 00	
			9,143 22
7. To balance due the United States, viz:			
Cash		109,195 90	
Uncollected taxes		22,303 29	
			131,499 19
			389,802 97

16 CR.

12. By amount of taxes receipted for on Forms 23½:			
In month of January		12,961 66	
" " " February		131,801 80	
" " " March		110,839 28	
			255,602 74
13. By amount of taxes not receipted for:			
Month of March, list collected, $108,667.10; bonded, $24,266.86		132,933 96	
" " April list do.		8 50	
" " N. O. list, div. 26, do.		1,243 90	
Annual list, 1865, do.		13 33	
Unass'ed penalty collected		54	
			134,200 23
15. By balance due collector			389,802 97

Dated at Monroe, La., this 24th day of July, A. D. 1866.

LEWIS B. COLLINS,
Collector Third District of Louisiana.

sand five hundred and forty-seven $\frac{21}{100}$ dollars is due to the United States, as stated in the above report.

(Signed) R. W. TAYLOR,
Comptroller.

To the REGISTER OF THE TREASURY.

14 *Statement of differences.*

Balance due to the United States		476,489 45
" found, per adjustment, due to same		651,547 21
Difference to collector's debit		175,057 76
Explained thus:		
1. Amount of lists, Form 23¼, charged in present report	665,347 92	
" " beer stamps sold " " " "	101 75	
" " collections to cancel transportation bonds, charged in present report	547 44	
4. " " collections on bonded goods received from other districts, charged in present report	2,591 52	
		668,588 63
Per contra:		
5. Cash deposited, credited in present report		
6. Taxes abated, " " " "		
7. Balance, as per collector's ⅝ to Dec'r 31st, 1866, due the United States	476,489 45	
" " auditor's report, to Dec'r 31st, 1866, due to the United States	430,116 47	
Difference to collector's credit	46,372 98	
Difference thus caused:		
Amount of taxes credited by collector in excess of am't charged in the auditor's report	57,774 45	
NOTE.—Of this amount, collections, annual list 1866, and December, 1866, credited by collector in advance of receipt of said lists, 28,572.35; collections to cancel transportation bonds, 547.44; and collections on bonded goods received from other districts, 2,591.22, are charged in the present report. See items above, Nos. 3 and 4, and schedule of lists below.		
From which deduct:		
Amount of disbursements for office expenses charged by collector, not allowed	11,401 47	
Difference, as above stated	46,372 98	
		493,530 87
Lists charged herein		175,057 76

	Form 23¼.	Form 103, beer stamps.
Annual, 1866	82,511 91	
December, "	213,543 46	
Jnnuary, 1867	205,621 19	21 27
February, "	109,555 87	51 80
March, "	54,115 49	28 68
	665,347 92	101 75

FIFTH AUDITOR'S OFFICE,
December 3rd, 1867.

Examined and stated by—

J. FRED. JOSEPH.

COMPTROLLER'S OFFICE,
December 3rd, 1867.

Examined and reported by—

S. C. CLARKE.

15 COLLECTOR'S QUARTERLY ACCOUNT NO. 1, QUARTER ENDING MARCH 31ST, 1866.

The United States (Office of Internal Revenue) in account with Lewis B. Collins, collector 3rd dist. Louisiana.

DR.

3. To cash deposited:			
Month of February		95,780 44	
" " March		43,314 40	
			139,094 84
6. To amount of cotton bonded in the quarter for transportation to the 1st dist. La., the tax to be collected there, viz:			
January, $54,551.74; February, $29,361.78; March, $1,885.34		85,798 86	
March, not receipted for		24,266 86	
			110,065 72
To disbursements, as follows:			
From 63, office expenses	3,500 83		
Do. 85, stationery, &c.	2,056 80		
Assessor's 3%	5,321 25		
Collector's 1%	1,064 34		
		11,943 22	
Less draft		2,800 00	
			9,143 22
7. To balance due the United States, viz:			
Cash		109,195 90	
Uncollected taxes		22,303 29	
			131,499 19
			389,802 97

16 CR.

12. By amount of taxes receipted for on Forms 23½:			
In month of January		12,961 66	
" " " February		131,801 80	
" " " March		110,839 28	
			255,602 74
13. By amount of taxes not receipted for:			
Month of March, list collected, $108,667.10; bonded, $24,266.86		132,933 96	
" " April list do.		8 50	
" " N. O. list, div. 26, do.		1,243 90	
Annual list, 1865, do.		13 33	
Unass'ed penalty collected		54	
			134,200 23
15. By balance due collector			389,802 97

Dated at Monroe, La., this 24th day of July, A. D. 1866.

LEWIS B. COLLINS,
Collector Third District of Louisiana.

17 **No. 2.—Collector's Quarterly Account No. 2, ending June 30th, 1866.**

The United States (Office of Internal Revenue) in account with Lewis B. Collins, collector third district of Louisiana.

Dr.

4. Cash deposited, April		33,000 00	
May		15,000 00	
June		25,000 00	
			73,000 00
To amount cotton bonded in the quarter: April, $9,952.10; May, $844.64; June, $163.80			10,960 54
7. To amount of disbursements in the quarter:			
Office expenses	4,328 37		
Stationery	136 80		
Assessors	2,063 16		
Collectors	773 92		
		7,302 25	
Less drafts Nos. 2613 and 2890		5,044 00	
			2,258 25
8. To balance due the United States, viz:			
Cash		149,910 45	
Uncollected taxes		23,519 00	
			173,429 45
			$259,648 24

18 **Cr.**

9. By balance, as per last account rendered, No.		131,449 19
13. By amount of taxes receipted for on Forms 23½:		
Month of April, bal. March list	12,163 78	
" " May, do. April do	69,607 37	
" " June, do. May do	20,797 72	
		102,568 87
14. By amount of taxes not receipted for:		
Month of annual, 1865	2,183 37	
" " Form 11½, 1866	6,042 30	
" " June, 1866, collected	17,190 71	
" " June, " bonded	163 80	
		25,580 18
16. Balance due collector		259,648 24

Schedule of certificates of deposits showing amounts deposited by Lewis B. Collins, collector third district of La., during the quarter ending June 30th, 1866.

Date certificate.	No. certificate.	Where deposited.	Amount.	
1866.				
April 6	896	First National Bank, N. O.	33,000 00	
May 26	973	" " " "	15,000 00	N. O.
June 15	1012	" " " "	15,000 00	
" 19	1015	" " " "	10,000 00	
		Total amount deposited	$73,000 00	

Dated at Monroe, La., this 29th day of August, A. D. 1866.

LEWIS B. COLLINS,
Collector 3rd District of Louisiana.

19 **No. 3.—Collector's Quarterly Account, No. 3, Quarter ending September 30th, 1866.**

The United States (Office of Internal Revenue) in account with Lewis B. Collins, collector third district of Louisiana.

Dr.

3. To cash deposited:			
July		10,000 00	
August		20,000 00	
September		38,000 00	
			68,000 00
6. To balance due the United States:			
Cash " " "		145,723 93	
Uncollected taxes " "		29,485 33	
			175,209 26
			243,209 26

20 Cr.

7. By balance, as per last account rendered, No.			173,429 45
" amount of taxes receipted for on Form 23½:			
Assessor's list for June	$22,043 37		
Less amount on last quarterly	17,354 51		
		4,688 86	
Assessor's list for July		13,885 21	
Assessor's list for August		13,994 52	
Assessor's annual list, 1865	$15,517 79		
Less am't taken up on previous q'rs.	2,196 70		
		13,321 09	
			45,889 68
By amount of taxes not receipted for:			
Amount collected on annual list, 1866, within the quarter		18,775 70	
Amount collected on assessor's Sept'r list		5,114 43	
			23,890 13
			243,209 26

Dated Monroe, this twelfth day of November, A. D. 1866.

LEWIS B. COLLINS,
Collector Third District of Louisiana.

21 **No. 4.—Collector's Quarterly Account, No. 4, Quarter ending December 31st, 1866.**

The United States (Office Internal Revenue) in account with Lewis B. Collins, collector 3rd district of Louisiana.

Dr.

3. To cash deposited:			
November		40,000 00	
December		214,255 00	
			254,255 00
To balance due the United States:			
" cash		332,054 33	
" uncollected taxes		144,435 12	
			476,489 45
			730,744 45

22 CR.

7.	By balance as per last account rend'r'd, No. 3		175,209 26
11	By amount of taxes receipted for on Form 23½:		
	Assessor's list for Sep't'r 16,778 65		
	Less am't coll'd q'r. 5% No. 3 ..... 5,114 43		
		11,664 22	
	Assessor's list for Oct	188,351 57	
	" " " Nov	202,781 83	
			402,797 62
11½.	By amount not receipted for:		
	Collections on annual list, 1866	22,041 82	
	" " December list, 1866	6,530 53	
	" " bonded goods from other districts	2,591 52	
	" " J.W. Simmons, Nov., 1866	*496 80	
	" " H. Laurence, Dec., 1866	*50 64	
			31,711 31
11¾.	By am't goods bonded for transportation from January to June, 1866, inclusive, taken up by order of Commissioner, viz:		
	January list	54,709 64	
	February "	31,089 22	
	March "	24,266 86	
	April "	9,952 10	
	May "	844 64	
	June "	163 80	
			121,026 26
			730,744 45

Dated at Monroe, La., this 12th day of February, A. D. 1867.

LEWIS B. COLLINS,
Collector Third District of Louisiana.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
January 9th, 1868.

Pursuant to the act of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, N. L. Jeffries, Acting Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifty Auditor of the Treasury, numbered 1965, as admitted and certified by the Comptroller, upon the account of Lewis B. Collins, late collector of internal revenue for the third district of Louisiana, and of the statement of differences thereon, are a transcript from the books and proceedings of the Treasury; and that the copies of the accounts-current of said collector are true copies of the originals on file in this office; and that the copies of assessor's certificates of assessment-lists, &c., are true copies of the originals on file in the Treasury Department.

(Signed) N. L. JEFFRIES,
Act'g Register.

Be it remembered, that N. L. Jeffries, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Hugh McCulloch, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this ninth day of January, in the year of our Lord 1868.

[SEAL.] (Signed) HUGH McCULLOCH,
Secretary of the Treasury.

*To cancel their transp't'n bonds.

Answer of Elstner.—Filed May 4th, 1868.

THE UNITED STATES
vs.
A. J. HERRON ET AL. } No. 5559. In U. S. C. C.

And now comes into court, by his undersigned attorneys, John C. Elstner, a citizen of Louisiana, and for answer to the petition denies all and singular the allegations thereof tending to charge this
23 respondent with any liability towards the plaintiff.

He prays to be hence dismissed with his costs and for general relief.

(Signed) MONCURE & FLANAGAN.
CAMPBELL, SPOFFORD & CAMPBELL,
for Deft. Elstner.

Answer of W'm C. Fulham and F. J. Herron.—Filed May 16th, 1868.

United States circuit court, fifth circuit, district of Louisiana.

THE UNITED STATES
vs.
FRANCIS J. HERRON ET ALS. } No. 5559.

And now into this honorable court comes F. J. Herron and W'm C. Fulham, made defendants herein, and for answer to plaintiff's petition admit that they signed the bond set forth therein.

And, further answering, plead ignorance as to the correctness of the accounts between the United States Government and Lewis B. Collins, and therefore deny the same.

Wherefore they pray the plaintiff's petition be dismissed with costs.

(Signed) SULLIVAN, BILLINGS & HUGHES,
24 *of Counsel for Herron & Fulham.*

Plea in discharge of F. J. Herron.—Filed January 21st, 1869.

U. S. circuit court.

UNITED STATES
vs.
F. J. HERRON ET AL. } No. 5559.

And now comes F. J. Herron, made defendant herein, and for peremptory exception and supplemental answer to plaintiff's demand herein, says that on the 30th day of May, 1868, he filed his petition to be adjudged as bankrupt in the United States district court for the district of Louisiana, under act of Congress approved March 2d, 1867, entitled An act to establish a uniform system of bankruptcy throughout the United States; that on the 18th day of January, 1869, in due course of law, a discharge was granted to him under the provisions of said bankrupt act, in the words and figures set forth in the certified copy of said discharge, which is hereto annexed and made part hereof; that
25 plaintiff herein alleges a debt, claim, liability, and demand, which was or might have been proved against the respondent's estate in said bankruptcy, and that the said discharge is a full and complete bar to plaintiff's demand herein alleged.

Wherefore respondent prays for leave to file his supplemental answer and plea, and that plaintiff's demand be dismissed with costs.

(Signed) A. B. LONG, *Att'y.*

Certificate in bankruptcy.

United States district court, district of Louisiana, No. 626, in bankruptcy.

Present, the honorable E. H. Durell.

JAN'Y 11TH, 1869.

Whereas, F. J. Herron has been adjudged bankrupt under the act of Congress establishing a uniform system of bankruptcy throughout the United States, approved March 2d, 1867; and

Whereas it appears that the said petitioner has conformed to
26 all the requirements of law in that behalf;

It is therefore ordered and decreed by the court that said F. J. Herron be, and he is hereby, forever discharged from all debts and claims which, by said act, are made provable against estate, and which existed on the 30th day of May, 1868, on which day the petition for adjudication was filed, excepting such debts, if any, as are by said act excepted from the operation of a discharge in bankruptcy.

(Signed) E. H. DURELL, *Judge.*

Given under my hand and the seal of our said court, at New Orleans, this eighteenth day of January, A. D. 1869.

[SEAL.] (Signed) CH'S CLAIBORNE, *Clerk.*

Hearing and continuance of cause.—Extract from minutes.

November term, 1868.

NEW ORLEANS, *Thursday, January 21st,* 1869.

Court met pursuant to adjournment. Present, Hon. E. H. Durell, dist. judge.

27 UNITED STATES } 5559.
vs.
F. J. HERRON & ALS. }

This cause came up for trial—U. S. att'y for plaintiffs, A. B. Long for def't, Herron; and after hearing the pleadings and evidence, the cause is continued till to-morrow at 11 a. m.

Judgment, from judgment-book.

United States circuit court, fifth circuit and district of Louisiana, November term, 1868.

NEW ORLEANS, *Friday, January 22d,* 1869.

Court met pursuant to adjournment. Present, Hon. E. H. Durell, district judge.

UNITED STATES } 5559.
vs.
F. J. HERRON & ALS. }

This cause came up for trial agreeably to yesterday's continuance—U. S. attorney, for plaintiff, A. B. Long for defendant, Herron; when after

hearing argument of counsel, it is ordered, adjudged, and decreed
28 that there be judgment in favor of defendant, F. J. Herron, with costs, and that the United States do recover judgment against the defendants, William C. Fulham and John C. Elstner, in solido, for the sum of fifty thousand dollars, with 5 % interest from 16th of April, 1868, till paid, and costs of suit.

Judgment rendered January 22d, 1869.
Judgment signed January 27th, 1869.
(Signed) E. H. DURELL, *Judge.*

Petition for writ of error.—Filed April 9th, 1872.

To the hon. the judges of the circuit court of the United States for the fifth circuit and district of Louisiana.

The petition of The United States with respect shows that they are aggrieved by the final judgment rendered against them, and in favor of the defendant, Francis J. Herron, in the case of The United States vs.
Francis J. Herron, Thomas P. May, William C. Fulham, Henry
29 E. Robinson, and John C. Elstner, No. 5559 of the docket of this court, on the 27th day of January, 1869, and are advised that there is error therein to their prejudice. Wherefore they pray that a writ of error therefrom be allowed them, returnable to the next term of the Supreme Court of the United States.

(Signed) J. R. BECKWITH,
U. S. Att'y.

Motion and order for writ of error.—Extract from minutes, April 9th, 1872.

UNITED STATES
vs. } No. 5559.
FRANCIS J. HERRON.

On motion of J. R. Beckwith, att'y of the United States, and on presenting and filing the petition of the United States, representing that they are aggrieved by the final judgment herein rendered against them and in favor of the defendant, Francis J. Herron, on the 27th day of January, 1869, and praying a writ of error therefrom to the next term of the Supreme Court of the United States, it is ordered that the
30 same be allowed, returnable to the next December term of the Supreme Court of the United States.

31 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for fifth circuit and district of Louisiana, do hereby certify that the foregoing 30 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of The United States vs. Francis J. Herron et als., No. 5559 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 4th day of November, A. D. 1872.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, E. H. Durell, United States judge for the district of Louisiana, do hereby certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations.

Given under my hand at the city of New Orleans, in said district, this 4th day of November, A. D. 1872.

E. H. DURELL, *Judge.*

32 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or one of you, between the United States of America and Francis J. Herron, a manifest error hath happened, to the great damage of the said United States of America, as by their complaint appears:

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this first day of January, in the year of our Lord one thousand eight hundred and seventy-two.

[SEAL.] F. A. WOOLFLEY,
Clerk of the United States Circuit Court for the District of Louisiana.

(Indorsed:) United States circuit court. No. 5559. United States of America, plaintiffs in error, versus. Francis J. Herron, def't in error. Writ of error. Filed April 9th, 1872. F. A. Woolfley, clerk.

33 THE UNITED STATES OF AMERICA,
District of Louisiana:

The President of the United States to Francis J. Herron, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein The United States of America is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme

Court of the United States, this 1st day of January, in the year of our Lord one thousand eight hundred and seventy-two.

W. B. WOODS, *Judge.*

34 (Indorsed:) United States circuit court. No. 5559. United States of America, plaintiff in error, vs. Francis J. Herron, def'd't in error. Citation.

Marshal's return.

Received, Ap'l 9, '72, by the United States marshal, and on the same day, month, and year, served a copy of the within citation as follows, to wit, delivered a copy of the within to Francis J. Herron, personally, at his office in the State-house in this city.

New Orleans, April 9th, 1872.

S. B. PACKARD,
U. S. Marshal.
By JAMES E. AYER, *D'y.*

On this 9th day of April, 1872, personally appeared before me James E. Ayer, and makes oath that he served a copy of the within citation, as stated in his official return hereon.

JAMES E. AYER.

Sworn to & subscribed before me this 9th day of April, 1872.

F. B. VINOT, *D'y Clerk.*

(Indorsement on cover:) No. 252. The United States plaintiffs in error, vs. Francis J. Herron. Louisiana C. C. U. S. Filed 15th November, 1872.

In the Supreme Court of the United States.

OCTOBER TERM, 1873.

THE UNITED STATES, *Plaintiffs in Error*,
vs.
FRANCIS J. HERRON.
} No. 252.

In Error to the Circuit Court of the United States for the District of Louisiana.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1873.

THE UNITED STATES, *Plaintiffs in Error*,
vs.
FRANCIS J. HERRON. } No. 252.

In Error to the Circuit Court of the United States for the District of Louisiana.

BRIEF FOR THE UNITED STATES.

STATEMENT.

Suit on a bond executed by Lewis B. Collins, as principal, and Herron and others as sureties.

Herron pleaded a discharge under the bankrupt act of 1867, ch. 517, secs. 32, 34, (14 U. S. Stat., 532, 533.)

The court below gave judgment in favor of Herron and against the other sureties, and on the pleadings necessarily sustained the defendant's plea.

ASSIGNMENT OF ERROR.

A discharge under the bankrupt law does not bar a debt due the United States.

ARGUMENT.

Sec. 34 of the bankrupt act of 1867 enacts "That a discharge duly granted under this act shall, with the exceptions aforesaid, release the bankrupt from all debts, claims, liabilities, and demands which were or

might have been proved against his estate in bankruptcy, and may be pleaded * * * as a full and complete bar to all suits brought on any such debts, claims, liabilities, or demands."

As the United States are not mentioned by name, according to a familiar principle of law, reasserted at this term in the most explicit manner, they are not bound by this statute, broad as the words seem to be.

Dollar Savings Bank *vs.* United States, No. 203 on the present docket.

And this has been the uniform construction of similar bankrupt acts in England and this country.

Anon., 1 Atk., 262.

United States *vs.* King, Wallace, C. C., 12.

People *vs.* Herkimer, 4 Cowen, 345.

Commonwealth *vs.* Hutchinson, 10 Barr, 466.

Eden B. L., 413.

Hilliard on Bankruptcy, (2d ed.,) 295.

C. H. HILL,
Assistant Attorney General.